

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DAZON (ARIZONA), INC., an  
Arizona corporation,

Plaintiff,

v.

Case No. 5:06-CV-24

Hon. Richard Alan Enslen

MICHAEL D. MOORE,  
d/b/a JMC FUN CENTER,

Defendant.

**ORDER DENYING  
APPLICATION WITHOUT  
PREJUDICE**

Plaintiff Dazon (Arizona), Inc. has properly moved for entry of a Default Judgment under Federal Rule of Civil Procedure 55. Notwithstanding, the supporting affidavit contains no certification that Defendant Michael D. Moore (a 30-year-old male) is not an active member of the Armed Services; rather, the service status is specified as unknown. (Aff. of Bree D. Vincent ¶ 4.)

This situation calls into operation 50 U.S.C. App. § 521(b)(3). The section provides that if an affiant does not ascertain the military service status of a defaulting defendant, the district court may require the issuance of a bond or “may issue such orders . . . as necessary to protect the rights of the defendant . . . .” In its discretion, the Court determines that this Order is necessary and will protect those rights without unduly infringing upon Plaintiff’s rights.

**IT IS HEREBY ORDERED** that Plaintiff’s Application for Default Judgment (Dkt. No. 7) is **DENIED WITHOUT PREJUDICE** and the Default of November 9, 2006 is **SET ASIDE**

pending further application supported by a certification that Defendant Michael D. Moore is not an active member of the Armed Services.

DATED in Kalamazoo, MI:  
November 15, 2006

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE